

भाग-IV

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Correction Slip

The 19th January, 2024

No. 87 Rules/II.D.4.— Dated 11th January, 2024

In terms of Rule 7 of Chapter 9 Part B of the Rules & Orders of Punjab and Haryana High Court, Volume-V, the following amendments carried out in the first schedule of the Code of Civil Procedure (after publication in the government gazettes of Punjab, Haryana and U.T. Chandigarh), are incorporated in Chapter 21 of the High Court Rules & Orders, Volume-I in the following manner:-

I. Punjab and Haryana High Court Notification No. 150 Rules/XI.Y.16. dated 24.04.2009, published in Punjab Government Gazette on 15.05.2009, in Haryana Government Gazette on 01.05.2009 and in Chandigarh Administration Gazette on 01.06.2009.

(a) **After Rule 21 of Order V in Chapter 21 of the High Court Rules & Orders, Volume-I, newly inserted Rule 21-A in Order V is incorporated as under:**

21-A. The High Court shall prepare a panel of courier service providers for the High Court and for Subordinate Courts in the States of Punjab, Haryana and Union Territory Chandigarh, which may be reviewed every year.

Explanation.- While giving approval to the panel of courier service providers by the High Court, the recommendations of District Judges may be kept in view:

Provided that where it has been found that a courier service provider has given a false report, information shall be sent to the High Court in this regard by the Court, through the District Judge. Upon receiving three such complaints, the courier service provider shall, after an opportunity of being heard, be placed on the blacklist, if his explanation has been unsatisfactory. He shall remain on the blacklist for a period of three years.

(b) **After Rule 21-A of Order V in Chapter 21 of the High Court Rules & Orders, Volume-I, new inserted proviso below Rule 15(4) in Order VI is incorporated as under:**

Provided further that on amendment of pleadings, afresh affidavit shall have to be filed in consonance with the amended pleadings.

(c) **After Rule 2 of Order XVIII in Chapter 21 of the High Court Rules & Orders, Volume-I, newly inserted sub-rule (9) of Rule 4, Order XVIII is incorporated as under:**

(9) The procedure for preparation of panel of Commissioners:-

APPOINTMENT OF COMMISSIONER

1. Qualifications:

The following persons shall be treated as qualified and eligible for being empanelled as Commissioners under Order 18 Rule 4(2) CPC :-

- (i) Retired Judges of the Supreme Court of India;
- (ii) Retired Judges of the High Courts;
- (iii) Retired District and Sessions Judges;
- (iv) Retired Additional District and Sessions Judges;
- (v) Retired Civil Judges;
- (vi) Legal Practitioners with 10 years of standing at the Bar having been so empanelled by the High Court.

2. Mode of Empanelment of an Advocate:

- I. The District Judge *my suo motu* or on an application by and Advocate eligible to be empanelled under Rule (1) supra, desirous of being brought on the panel of Commissioners for recording evidence in the terms of Order 18 Rule 4(2) of the Code of Civil Procedure, 1908, would make his recommendations to the High Court in respect of the suitability of the recommendee as a Commissioner.
- II. The High Court after considering the recommendation and the material sent by the District Judge or otherwise available before it, approve the recommendations, as found proper, for empanelment as Commissioners(s).

3. Mode of empanelment other than an Advocate:

The District Judge may recommend the names of the former Judicial Officers, after seeking their consent, to be brought on the panel of the Commissioners maintained for recording evidence in terms of Order 18 Rule 4(2) of the Code of Civil Procedure, 1908. The High Court after considering the recommendations and the material sent by the District Judge would approve the recommendations, as found proper, for the empanelment as Commissioners(s).

4. Disqualifications:

The following shall be disqualification for being empanelled as Commissioner Under Order 18 Rule 4(2) CPC:-

- (i) any person who has been adjudged insolvent;
- (ii) any person against whom, criminal charges have been framed and are pending ; or
- (iii) any person who has been convicted by a Criminal Court for any offence involving moral turpitude;
- (iv) any person against whom disciplinary proceedings have been initiated by the competent authority or who has been punished in such proceedings;
- (v) such other categories of persons as may be notified by the High Court.

5. Removal or Deletion from the Panel:

A person whose name is placed in the panel referred to above, may be removed or his name be deleted from the said panel, by the court which empanelled him, if :-

- (i) he resigns or withdraws his name from the panel for any reason; or
- (ii) he is declared insolvent or is declared of unsound mind; or
- (iii) he is a person against whom criminal charges are framed by a criminal court and are pending; or
- (iv) he is a person, who has been convicted by a criminal court for any offence involving moral turpitude ; or
- (v) he is person against whom disciplinary proceedings on charges relating to moral turpitude have been initiated by appropriate disciplinary authority, which are pending or have resulted in a punishment ; or
- (vi) he exhibits or displays conduct, during functioning as Commissioner, which is unbecoming of a Commissioner ; or
- (vii) the Court which empanelled, upon receipt of information, if it is satisfied, after conducting such inquiry as it deems fit, is of the view, that it is not possible or desirable to continue the name of that person in the panel.

Provided that, before moving or deleting his name, under clause (vi) and (vii), the court shall hear the Commissioner whose name is proposed to be removed or deleted from the panel and shall pass a reasoned order.

6. Procedure for recording evidence by the Commissioner:

- (i) The Court shall while appointing the Commissioner issue directions regarding the place where Commissioner shall hold the proceedings. The Court shall also indicate the timings for the proceedings before the Commissioner. The place and timings may be determined as per the convenience of the parties and the Commissioner.
- (ii) The Court shall summon witnesses on applications filed by the plaintiff or the defendant and it shall be mentioned in the summons that evidence shall be recorded before the Commissioner appointed by the Court. The witness so summoned shall appear before the Local Commissioner for evidence. Thereafter, on appearance, the Local Commissioner shall proceed to record evidence of the witnesses who are present.

However where the witnesses failed to appear before the Local Commissioner, the Commissioner shall close the evidence after recording that the witnesses are absent but the Court on showing sufficient cause can permit the witnesses to be re-examined either by the Local Commissioner or before the Court itself on such terms and conditions as it deems appropriate.

- (iii) The Court shall, while giving directions, also indicate the time period for completion of the proceedings by the Commissioner.
- (iv) The Court shall order whether the Commissioner has to be handed over the original record of the case or only the Photostat copies of pleadings, documents and evidence. All photocopies shall be supplied by the party for whose evidence the Commissioner has been appointed.
- (v) The fee of the Commissioner shall be fixed by the Court at the time of appointment of the Commissioner after consultation with the party. The fee shall be deposited in Court in advance by the party at whose instance the evidence is to be recorded, half fee that has been deposited shall be released to the Commissioner before he commences recording of evidence and the remaining half after the completion of the recording of evidence by the Commissioner.

2. *Punjab and Haryana High Court Notification No. 18 Rules/XI.Y.16. dated 12.04.2016, for Haryana and UT Chandigarh, published in Haryana Government Gazette on 12.04.2016 and in Chandigarh Administration Gazette on 02.05.2016.*

and

Punjab and Haryana High Court Notification No. 162 Rules/XI.Y.16 dated 26.10.2018 for Punjab published in Punjab Government Gazette on 23.02.2023:-

After sub-rule (9) of Rule 4 in Order XVIII in Chapter 21 of the High Court Rules & Orders, Volume-I, substituted Clause (vi) of sub-rule (9)(1) of Rule 4, Order XVIII is incorporated as under:-

“1(vi) Legal practitioners with 5 years of standing at the Bar (having adequate experience of examining the witnesses) having been so empanelled by the High Court”

3. *Punjab and Haryana High Court Notification No. 100 Rules/XI.Y.16 dated 01.06.2019 for Punjab and Haryana published in Punjab Government Gazette on 06.06.2019 and in Haryana Gazette on 27.02.2023.*

and

Punjab and Haryana High Court Notification No. 63 Rules/XI.Y.16 dated 19.04.2023 for Union Territory, Chandigarh published in Chandigarh Administration Gazette on 20.04.2023.

After Order XXI, Rule 32 in Chapter 21 of the High Court Rules & Orders, Volume-I, newly inserted sub-rule (4) of Rule 35 in Order XXI is incorporated as under:

“Where at the time of delivery of possession of immovable property, it is found that there are movable(s) lying in that property to which the decree holder has no claim and the judgment-debtor is absent, or if present, does not immediately remove the same, the officer entrusted with the warrant for delivery of possession shall make an inventory of the articles so found, with their probable value, in the presence of respectable persons on the spot, and have the same attested by them. The movable(s) shall be either handed over to some respectable person on sapurdari or shall be given in the custody of the decree holder after taking a bond from him for the safe custody of those articles, pending orders of the Court for disposal of the same.

The officer shall then make a report accompanied by such inventory, to the Court.

The Court shall, thereupon, issue a notice to the judgment-debtor/his counsel requiring him to take delivery of the said movable within fifteen days from the date of notice. It shall be specified in the notice that in default of the judgment debtor/his counsel responding to the notice, the articles shall be sold in public auction at the risk and cost of judgment debtor and the proceeds applied for meeting all legitimate expenses of custody and sale. The balance, if any, shall be deposited in Court and refunded to the Judgment-debtor:

Provided that if movable articles referred to above are perishable, the officer shall sell them in public auction immediately, and bring the proceeds into Court. The notice to the Judgment-debtor shall in such a case call upon him to receive the amount from Court within three months.”

4. *Punjab and Haryana High Court Notification No. 189 Rules/XI.Y.16. dated 20.11.2023, published in Punjab Government Gazette on 23.11.2023, in Haryana Government Gazette on 24.11.2023 and in Chandigarh Administration Gazette on 21.11.2023.*

- I. Sub-rule (1) of Rule 1, Order XIII of Code of Civil Procedure, substituted *vide* Notification No. GSR 39C.A.5/1908/S.12257, dated 17.03.1975 at Serial Number 29 as contained in Chapter 21 of the High Court Rules & Orders, Volume-I is ‘omitted’.

II. After Order XIII, Rule 1 in Chapter 21 the High Court Rules & Orders, Volume-I, newly inserted sub-rule (4) of Rule 1 in Order XIII is incorporated as under:

“1. Original documents to be produced at or before the settlement of issues.-

(4) The documents as mentioned in sub-rule (1) and all other documents which the Court orders to be produced, shall be produced in the following Form No. 5 of Appendix H (Miscellaneous) of the Appendices to the First Schedule of CPC by substituting the existing Form No. 5:-

No. 5

**List of documents produced by plaintiff/Defendant under
Order XIII, Rule 1, Civil Procedure Code
(Order XIII, sub-rule(4) of Rule 1)**

IN THE COURT OF _____ AT _____ DISTRICT

SUIT NO. _____ OF 20 _____

_____ Plaintiff

Versus

_____ Defendant

**List of documents produced with the plaint (or at first hearing) on
behalf of Plaintiff or defendant**

This List was filed by _____ this day of 20 _____

1	2	3	4		5
Serial No.	Description and date, if any, of the document	What the document is intended to prove	What became of the document		Remarks
			If brought on the record, Exhibit mark put on the document	If rejected date of return to the party and signature of party, or pleader to whom the document was returned.	

**Signature of party or pleader
Producing the list.**

III. After Order XVIII, Rule 2 in Chapter 21 of the High Court Rules & Orders, Volume-I, newly inserted proviso to Rule 4(1), Order XVIII is incorporated as under:

“Provided further that the Court in its discretion may record the examination-in-chief of a witness orally or by way of affidavit.”

BY ORDER OF HON'BLE THE CHIEF JUSTICE AND JUDGES.

ARUN KUMAR AGGARWAL,
Registrar (Rules),
for Registrar General.